

House Bill 288

By: Representatives Fludd of the 66th, Teilhet of the 40th, Mosby of the 90th, McKillip of the 115th, Shipp of the 58th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment security, so as to provide for a self-employment assistance program; to provide a short title; to provide definitions; to establish the maximum allowable amount of weekly self-employment assistance; to determine eligibility; to limit the number of individuals receiving a self-employment assistance allowance; to provide for a self-employment assistance allowance to be charged or assessed to an employer's account; to provide for appeal of nonacceptance into a self-employment assistance program; to provide for reports by the Commissioner of Labor; to provide for automatic repeal; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment security, is amended by revising subsection (b) of Code Section 34-8-220, relating to appointment of hearing officers to hear and decide appealed decisions, as follows:

"(b) Unless an appeal is withdrawn, an administrative hearing officer, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and initial determination or shall make a decision after hearing on issues referred by the Commissioner pursuant to subsection (b) of Code Section 34-8-192 or subsection (b) of Code Section 34-8-307. The parties shall be duly notified of such decision, together with the reasons therefor, which shall be deemed to be the final decision of the Commissioner, unless within 15 days after the date of notification or mailing of such decision further appeal is initiated pursuant to subsection (a) of Code Section 34-8-221."

SECTION 2.

Said chapter is further amended by revising subsection (a) of Code Section 34-8-223, relating to procedure for judicial review of final decisions of board of review, as follows:

"(a) Any decision of the board of review, in the absence of a reconsideration as provided in subsection ~~(d)~~ (c) of Code Section 34-8-192 or subsection (c) of Code Section 34-8-307, shall become final 15 days after the date of notification or mailing. Judicial review shall be permitted only after any party claiming to be aggrieved thereby has exhausted his or her administrative remedies as provided by this chapter. The Commissioner shall be deemed to be a party to any judicial action involving any such decision and shall be represented in any such judicial action by the Attorney General."

SECTION 3.

Said chapter is further amended by adding a new article to read as follows:

"ARTICLE 11

34-8-300.

This article shall be known and may be cited as the 'Self-employment Assistance Program.'

34-8-301.

As used in this article, unless the context otherwise indicates, the term:

(1) 'Regular benefits' means benefits payable to an individual under this chapter including benefits payable to federal civilian employees and to former members of the United States armed forces pursuant to Title 5 U.S.C. Chapter 85, other than additional benefits, extended benefits, and extended benefits for dislocated workers.

(2) 'Self-employment assistance activities' means activities approved by the Commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed. Such activities shall include but are not limited to entrepreneurial training, business counseling, and technical assistance.

(3) 'Self-employment assistance allowance' means an allowance payable, in lieu of regular benefits, from the Employment Security Administration Fund to an individual who meets the requirements of this article.

(4) 'Self-employment assistance program' means a program under which an individual who meets the requirements described in Code Section 34-8-304 is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.

34-8-302.

The weekly amount of a self-employment assistance allowance payable to an individual under this article shall be equal to the weekly benefit amount for regular benefits otherwise payable under Code Section 34-8-193.

34-8-303.

The sum of the self-employment assistance allowance paid under this article and regular benefits paid under other provisions of this chapter may not exceed the maximum amount of benefits established under Code Section 34-8-193 with respect to any benefit year.

34-8-304.

The following eligibility requirements apply to the payment of a self-employment assistance allowance under this article:

(1) An individual may receive a self-employment assistance allowance if that individual:

(A) Is eligible to receive regular benefits or would be eligible to receive regular benefits but for the requirements described in paragraph (2) of this Code section;

(B) Is identified by a worker profiling system as an individual likely to exhaust regular benefits;

(C) Has filed an application for participation in a self-employment assistance program within 60 days of filing an initial application for regular benefits and has provided the information the Commissioner requires;

(D) Has, at the time the application for participation in a self-employment assistance program is filed, a balance of regular benefits equal to at least 18 times the individual's weekly benefits amount and at least 18 weeks remaining in the individual's benefit year;

(E) Has been accepted into a program approved by the Commissioner that will provide self-employment assistance activities;

(F) Is participating in self-employment assistance activities;

(G) Is actively engaged on a full-time basis in activities, which may include training, related to establishing a business and becoming self-employed; and

(H) Has filed a weekly claim for the self-employment assistance allowance and provided the information the Commissioner requires, including a log of self-employment activities; and

(2) A self-employment assistance allowance is payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits except that:

(A) The requirements of subparagraph (A) of paragraph (3) of Code Section 34-8-194, relating to refusal to accept work, are not applicable to the individual;

(B) The requirements of subparagraph (a)(3)(A) of Code Section 34-8-195, relating to availability for work and active search for work, are not applicable to the individual;

(C) An individual is considered unemployed for the purposes of Code Section 34-8-195; and

(D) An individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities, which may include training, related to establishing a business and becoming self-employed shall be denied benefits for the week the failure occurs.

34-8-305.

The aggregate number of individuals receiving self-employment assistance allowance at any time shall not exceed 5 percent of the number of individuals receiving regular benefits at that time.

34-8-306.

All self-employment assistance allowances under this chapter shall be charged or assessed to the general account of the department.

34-8-307.

(a) Employees of the department designated by the Commissioner shall take the initial claim. An initial determination thereon shall be made promptly and shall include a written determination of whether or not benefits are payable, the week benefits shall commence, the weekly benefit amount payable, and the maximum duration of benefits.

(b) Whenever a determination involves the application of difficult issues of fact or law, the Commissioner may appoint a panel of three administrative hearing officers for hearing and decision in accordance with subsection (a) of Code Section 34-8-220. The claimant and any other parties to the determination or redetermination shall be promptly notified in writing of the decision and the reasons therefor.

(c) A determination shall be final unless a party entitled to notice applies for reconsideration of the determination or appeals the determination within 15 days after the notice was mailed to the party's last known address or otherwise delivered to the party. Before a determination becomes final as provided in this Code section, the Commissioner may issue a redetermination if good cause is shown. Such redetermination is subject to further appeal by any party entitled to notice.

(d) Any appeal of initial determination or redetermination may be appealed in the same manner as provided for appeals of unemployment compensation determinations set forth in Article 8 of this chapter.

34-8-308.

The Commissioner may adopt rules necessary to implement a self-employment assistance program including, but not limited to, criteria for approval of programs that provide self-employment activities, eligibility criteria for acceptance into and participation in these programs in accordance with federal guidelines, and the review and appeal process for determination of individual eligibility for these programs.

34-8-309.

Annually by March 1, the Commissioner shall report to the standing committees of the General Assembly having jurisdiction over labor matters on the self-employment assistance program. This report shall include data on outcomes and successes as well as the number of individuals participating in the program and the number of businesses developed under the program, business survival, the cost of operating the program, and compliance with program requirements and data related to business income, the number of employees and wages paid in the new businesses, and the incidence and duration of unemployment after business start-up. The report may also include any recommended changes in the program.

34-8-310.

This chapter shall stand repealed in its entirety effective on June 30, 2012."

SECTION 4.

This Act shall become effective on July 1, 2009.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.